

# **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

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## **Preliminary Staff Report**

### **Proposed Amended Rule 1193 – Clean On-Road Residential and Commercial Refuse Collection Vehicles**

**September 2009**

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## **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

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## Introduction

Between June 2000 and April 2001, the South Coast Air Quality Management District (SCAQMD or District) Governing Board adopted seven mobile source rules, commonly referred to as the “fleet rules.” The purpose of the fleet rules is to reduce mobile source emissions by accelerating the implementation of currently available cleaner-burning or alternative-fuel vehicle technology. Rule 1193 – Clean On-Road Residential and Commercial Refuse Collection Vehicles was adopted by the SCAQMD Governing Board on June 16, 2000. Rule 1193 as initially adopted affected public fleets and private fleets with 15 or more refuse vehicles, requiring these fleets to purchase rule compliant vehicles (alternative-fuel, dual-fuel, or pilot ignition refuse vehicles) when an affected fleet operator decides to acquire one or more refuse vehicles. Rule 1193 was phased-in between July 1, 2001 and July 1, 2002. Types of refuse vehicles affected include solid waste collection vehicles, rolloff vehicles, and transfer vehicles. Refuse vehicles must weight more than 14,000 pounds to be affected by this rule.

## Background

On August 31, 2000, the Engine Manufacturers Association (EMA) filed a lawsuit challenging the mandatory vehicle purchase requirements contained in AQMD fleet rules, including Rule 1193. EMA’s complaint alleged the fleet rules were pre-empted by the Clean Air Act, Section 209(a), 42 United States Code § 7543(a). This section of the Clean Air Act generally preempts State standards relating to the control of emissions from new motor vehicles and new motor vehicle engines. On August 23, 2001, the District Court entered summary judgment against EMA and WSPA, holding that the Fleet Rules were not preempted by CAA Section 209(a) with the Ninth Circuit Court summarily affirming this finding. In 2004, the United States Supreme Court reversed the lower court decision, holding that mandatory vehicle purchase requirements could be within the scope of CAA Section 209(a). The Supreme Court concluded, however, that the Fleet Rules were not necessarily pre-empted in toto, and remanded the case back to the lower court for determination. On remand, the District court held that EMA’s challenge to the Fleet Rules was a facial challenge; (2) the market participant exception to pre-emption applied in the context of CAA Section 209(a); (3) the Fleet Rules as applied to state and local governments fell within the market participant exception to pre-emption; and (4) because certain applications of the Fleet Rules were not pre-empted by Section 209(a), EMA’s facial challenge to the Fleet Rules failed.

In addition, in the process of implementing the fleet rules, it has come to the attention of SCAQMD staff that at certain times diesel heavy-duty vehicles may have been extensively used in lieu of rule complaint vehicles, possibly due to equipment

breakdown. Rule 1193 does not contain a specific equipment breakdown provision. As such, the applicable SCAQMD rule to address this situation would be Rule 430 – Breakdown Provisions. Rule 430 was written to address equipment breakdown situations in stationary source applications, and is therefore difficult to apply to the fleet rules in terms of the specific set of circumstances that constitute equipment breakdowns, breakdown notification, and timeframes needed to remedy breakdowns. Therefore, a need exists to amend Rule 1193 to provide specific language to address equipment breakdowns specific to refuse vehicle operation and repair.

## **Proposed Amendments to Rule 1193**

Staff is proposing amendments to address recent court decisions on fleet rule applicability in terms of modifying the scope of the rule to apply to government fleets, except federal fleets. Where the combined total of refuse vehicles used by the government agency and private fleet to supply refuse collection services to the government agency constitutes 15 or more vehicles, the proposed rule would require (1) government agencies to acquire rule compliant refuse vehicles upon a decision by the government agency to acquire these vehicles, and (2) government agencies to contract out for 100 percent rule compliant vehicles and private entities to supply these vehicles when affected government agencies seek refuse collection services from private entities. The proposed amendments affect portions of the rule pertaining to purpose, applicability, definitions, fleet requirements, and exemptions, as contained in subdivisions (a), (b), (c), (d), and (f).

New language is also being proposed under subdivision (e) of Rule 1193 addressing equipment breakdown. This new subdivision contains a definition of equipment breakdown, as well as requirements pertaining to notification methods, recordkeeping, and equipment repair timeframes. Finally, additional clarifying language is being proposed to address potentially long refuse vehicle delivery timeframes that would allow the temporary use of diesel-powered refuse vehicles under certain conditions if a private contractor must order new rule compliant vehicles to supply services to a government agency upon commencement of a new agreement to provide these services. This proposed language is contained in subdivision (d) of the rule.

Following are the proposed changes to Rule 1193 and a brief explanation of the changes, revisions, or deletions. The proposed rule amendments are provided in Appendix A.

### **Rule 1193 (a) Purpose**

The following language is proposed to be added to the rule: “for use by or for governmental agencies in the South Coast Air Quality Management District (District).”

**Explanation:** This language is added to clarify that any governmental agency which either uses refuse collection vehicles or arranges to have refuse collection services provided within its jurisdiction by a private operator will be subject to the rule.

**Rule 1193 (b) Applicability**

The following revisions are proposed to the rule:

Remove the term “private entities” and add new language: “private fleet operators that provide solid waste collection services to governmental agencies.”

**Explanation:** This language provides specificity that the rule shall also apply to privately owned or operated refuse collection vehicles which provide service to a governmental agency as defined in the rule.

**Rule 1193 (c) Definitions**

The following revisions and additions are proposed to be added to the rule:

**Add the following definitions:**

EQUIPMENT BREAKDOWN means any malfunction to an alternative fuel solid waste collection vehicle subject to this rule which causes the vehicle to operate in an unsafe or unusable manner.

GOVERNMENTAL AGENCY includes any state, regional, county, city, or governmental department and agency, and any special district such as water, air, sanitation, transit, and school districts.

**Revise the following definition to remove the term “federal”:**

PUBLIC OR PRIVATE SOLID WASTE COLLECTION FLEET OPERATOR is a person who owns, leases, or operates substantially in the District, solid waste collection, rolloff, or transfer vehicles. A person is a ~~federal~~, state, county, or city government department or agency; special district such as a sanitation or water district; individual firm; limited liability company; association; partnership; corporation or any other entity that collects, transports, or transfers solid waste, yard waste, or recyclable materials.

**Explanation:** The court decisions which reviewed the application and authority of the SCAQMD Fleet Rules determined federal entities are excluded from such requirements.

**Rule 1193 (d) Fleet Requirements**

The following language is proposed to be added to the rule:

- (3) Beginning (*date of adoption*), any governmental agency that obtains new or renewed solid waste collection services from private fleet operator(s) shall contract for 100 percent use of alternative-fuel solid waste collection vehicles, including the use of backup alternative-fuel solid waste collection vehicles.

**Explanation:** As stated above, where the combined total of refuse vehicles used by the government agency and private fleet to supply refuse collection services to the government agency constitutes 15 or more vehicles, the proposed rule would require: (1) government agencies to acquire rule compliant refuse vehicles upon a decision by the government agency to acquire these vehicles, and (2) government agencies to contract out for 100 percent rule compliant vehicles and private entities to supply these vehicles when affected government agencies seek refuse collection services from private entities.

The following language is proposed to be added to the rule:

- (4) Pursuant to subparagraphs (d)(3)(A) or (d)(3)(B), alternative-fuel solid waste collection vehicles shall be used for the entire term of the contract. If alternative-fuel solid waste collection vehicles are not initially available for new or renewed solid waste collection services due to the date of delivery, the government agency shall submit a signed and dated Technical Infeasibility Certification Request (TICR) to the Executive Officer prior to the service award, demonstrating the unavailability of alternative-fuel solid waste collection vehicle(s) for the period of time during which alternative-fuel solid waste collection vehicles are to be delivered.
  - (A) Within 45 calendar days of receipt of a completed Technical Infeasibility Certification Request, the Executive Officer will either approve or disapprove the Request in writing, indicating the reasons for disapproval.
  - (B) The Executive Officer shall disapprove a Technical Infeasibility Certification Request if it does not meet the requirements of paragraph (d)(4). If a Technical Infeasibility Certification Request is disapproved by the Executive Officer:

- (i) The reasons for disapproval shall be given to the applicant in writing.
- (ii) Upon receipt of a notice of a disapproved Technical Infeasibility Certification Request, the fleet operator shall use alternative-fuel refuse collection vehicles pursuant to paragraph (d)(4).
- (iii) The fleet operator may resubmit a Technical Infeasibility Certification Request at any time after receiving a disapproval notification, but must still use alternative-fuel refuse collection vehicles pursuant to paragraph (d)(4) until such time as the Executive Officer approves a Technical Infeasibility Certification Request under subparagraph (d)(4)(A).

**Explanation:** This proposed rule language is intended to address potentially long lead time for the delivery of alternative fuel refuse vehicles. As a result, rule compliant vehicles may not be available at the start of service and would potentially necessitate the temporary use of non-rule compliant refuse vehicles under certain conditions if a private contractor must order new rule compliant vehicles to supply services to a government agency upon commencement of a new agreement to provide these services. The provisions of this section would require a governmental agency to submit a technical infeasibility certification request (TICR) to demonstrate to the Executive Officer why the contracted fleet operator is not able to provide service using a rule compliant vehicle at the outset of providing such service. Rule language is also included to specify the processing of TICRs including the maximum timeframe for determining TICR approval/disapproval and procedures for resubmitting the TICR if disapproved, for consistency with other fleet rules.

The following language is proposed to be added to the rule:

- (5) A governmental agency is permitted to substitute the use of a diesel-powered solid waste collection vehicle for an alternative-fuel solid waste collection vehicle based on compliance with requirements under subdivision (e).

**Explanation:** This language is proposed to reference new proposed rule language to address procedures for equipment breakdown, subdivision (e).



**Rule 1193 (e) Equipment Breakdown**

The following language is proposed to be added to the rule:

- (1) A fleet operator is permitted to substitute the use of a diesel-powered solid waste collection vehicle resulting from the breakdown of an alternative-fuel solid waste collection vehicle for a period lasting no longer than seven calendar days provided that the following requirements are satisfied:
  - (A) The fleet operator reports by telephone or other District-approved method, any breakdown of an alternative fuel solid waste collection vehicle to the Executive Officer within 24 hours of such breakdown. The fleet operator report shall include cause of breakdown, expected timeframe for use of diesel-powered vehicle, vehicle identification number and license plate numbers of vehicle experiencing breakdown and replacement vehicle, jurisdictions affected by vehicle breakdown (applicable for private fleet operators).
  - (B) Within (7) seven calendar days after a reported breakdown has been corrected, the fleet operator owner or operator shall submit a written Breakdown Report to the Executive Officer which includes:
    - (i) an identification of the vehicle involved in the equipment breakdown including VIN, license plate number, and the make, model, and model year of vehicle and engine(s), and the cause of the breakdown;
    - (ii) start and end dates of breakdown;
    - (iii) the date of the correction and information demonstrating that compliance is achieved;
    - (iv) the jurisdictions affected by the equipment breakdown and the number of route miles and estimated diesel fuel consumption by jurisdiction;
    - (v) a description of the corrective measures undertaken and/or to be undertaken to avoid such a breakdown in the future; and
    - (vi) information substantiating that the equipment breakdown did not result from operator error, neglect, or improper operation or maintenance procedures.

- (C) a backup alternative-fuel solid waste collection vehicle is not available.
- (2) If the breakdown was caused by operator error, neglect, improper operation or maintenance procedures, as determined by the Executive Officer, the provisions of subdivision (e) shall not apply.

**Explanation:** The proposed rule language is intended to provide direction on how and when a fleet operator is to report the breakdown, or inability to use, a rule compliant solid waste collection vehicle used to perform service(s) by or for an affected governmental agency. The proposed language would allow the temporary use (up to seven calendar days) of a diesel-powered vehicle provided the fleet operator complies with all the stated provisions in this subsection. The provisions of this rule shall not apply when a back-up alternative-fuel vehicle is available for use in place of a vehicle incurring a breakdown.

#### **Rule 1193 (f) Exemptions**

The following language is proposed to be removed from the rule:

- ~~(5) Persons subject to this rule who are unable to comply may apply for a variance with the SCAQMD Hearing Board. (See SCAQMD Regulation V and California Health and Safety Code Sections 42350 through 42372 for information regarding variances.)~~

**Explanation:** The proposed removal of this language is to conform with other District rules which do not include such language. Removal of this language does not preclude the ability of any person subject to this rule from applying for a variance with the SCAQMD Hearing Board.

The following language is proposed to be added to the rule:

- (6) Solid waste collection vehicles where the combined total of government operated solid waste collection vehicles and private fleet operated solid waste collection vehicles providing solid waste collection services to the government agency is fewer than 15 vehicles.

**Explanation:** The proposed rule language would exempt a governmental agency which uses less than 15 solid waste collection vehicles for all refuse collection services performed within its jurisdiction. This population of vehicles includes vehicles owned and operated by the governmental agency

and private fleet owned and operated vehicles providing service(s) within the jurisdiction of the governmental agency.

## **CEQA Analysis**

PAR 1193 is considered a “project” as defined by the California Environmental Quality Act (CEQA), and the AQMD is the designated lead agency. Pursuant to CEQA and AQMD Rule 110, the AQMD staff will prepare the appropriate environmental documentation to evaluate any potential adverse significant impacts associated with implementing the proposed amended rule. An environmental impact is defined as an impact to the physical conditions which exist within the area which would be affected by the proposed project.

## **Socioeconomic Analysis**

A socioeconomic analysis of the proposed amendments will be available 30 days before the hearing.

## **Summary and Draft Findings**

### **Summary**

These findings are being made in compliance with state law requirements.

### **Draft Findings Required by the California Health and Safety Code**

Health and Safety Code Section 40727 requires the SCAQMD to adopt written findings of necessity, authority, clarity, consistency, non-duplication and reference.

**Necessity** - The emission reductions associated with Proposed Amended Rule 1193 are needed for the following reasons:

- a) State and federal health-based ambient air quality standards for particulate matter and ozone are regularly and significantly violated in the South Coast Air Basin. The reduction of particulate matter and nitrogen dioxide emissions from diesel powered vehicles from Proposed Amended Rule 1193 is needed to meet federal and state air quality standards.
- b) By exceeding state and federal air quality standards, the health of people within the South Coast Air Basin is impaired.
- c) By exceeding state and federal air quality standards, the quality of life is reduced in the South Coast Air Basin in numerous respects.

- d) The California Clean Air Act (CH&SC Section 40910 et seq.) requires that the air districts make every effort to attain federal and state ambient air quality standards as soon as practicable. Proposed Amended Rule 1193 makes progress toward that goal.
- e) About 71 percent of cancer risk from air toxics is attributed to diesel particulate emissions, which would be reduced by the proposed rule.

**Authority** - The SCAQMD Board obtains its authority to adopt, amend, or repeal rules and regulations from Health & Safety Code Sections 40000, 40001, 40440, 40441, 40463, 40702, 40725 through 40728, and 40910 through 40920.

**Clarity** - The SCAQMD Board determines that Proposed Amended Rule 1193 is written or displayed so that its meaning can be easily understood by persons directly affected by it.

**Consistency** - The SCAQMD Board determines that Proposed Amended Rule 1193 is in harmony with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions, or regulations.

**Non-Duplication** - Proposed Amended Rule 1193 does not impose the same requirements as any existing state of federal regulation and is necessary and proper to execute the powers and duties granted to, and imposed upon, the SCAQMD.

**Reference** - In adopting Proposed Amended Rule 1193, the Board references the following statutes which the SCAQMD hereby implements, interprets or makes specific: H&S Code Sections 40001 (rules to achieve ambient air quality standards), 40440(a) (rules to carry out AQMP), and 40447.5(a) (rules to require fleets of 15 or more vehicles operating substantially in the SCAQMD to purchase vehicles powered by methanol or other equivalently clean burning alternative fuel when adding or replacing vehicles), and 40919(a)(4).

**APPENDIX A**

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**RULE 1193: CLEAN ON-ROAD RESIDENTIAL AND COMMERCIAL REFUSE  
COLLECTION VEHICLES**

(Adopted June 16, 2000)  
(Amended June 7, 2002)(Amended June 6, 2003)  
(PAR 1193 September 18, 2009)

**RULE 1193. CLEAN ON-ROAD RESIDENTIAL AND COMMERCIAL REFUSE  
COLLECTION VEHICLES**

(a) Purpose

For solid waste collection fleets operating in the South Coast Air Quality Management District (District), this rule requires public and private solid waste collection fleet operators to acquire alternative-fuel refuse collection heavy-duty vehicles when procuring or leasing these vehicles for use by or for governmental agencies in the South Coast Air Quality Management District (District) to reduce air toxic and criteria pollutant emissions.

(b) Applicability

This rule applies to government agencies ~~and private entities~~ that operate solid waste collection fleets with 15 or more solid waste collection vehicles and private fleet operators that provide solid waste collection services to governmental agencies. This rule shall not apply to vehicles or services pursuant to ~~paragraph subdivision (e)~~.

(c) Definitions

For purposes of this rule, the following definitions shall apply:

- (1) ALTERNATIVE-FUEL HEAVY-DUTY VEHICLE means a heavy-duty vehicle or engine that uses compressed or liquefied natural gas, liquefied petroleum gas, methanol, electricity, fuel cells, or other advanced technologies that do not rely on diesel fuel.
- (2) APPROVED CONTROL DEVICE(s) is an exhaust control device(s) that is verified or certified by CARB to reduce particulate matter and possibly other precursor emissions. For the purposes of this rule, a new heavy-duty vehicle equipped with approved control devices means that the engine family has been certified by CARB. A pre-owned heavy-duty vehicle equipped with approved control devices means that the device has been verified or certified by CARB. To be considered fitted with an approved control device(s), all diesel exhaust from the vehicle must be vented through such a device(s) that has been fitted at the time

of vehicle purchase or fitted by a certified device installer at the time the device is delivered to the operator.

- (3) DUAL-FUEL HEAVY-DUTY VEHICLE means a heavy-duty vehicle equipped with a diesel engine that uses an alternative fuel (such as compressed or liquefied natural gas, liquefied petroleum gas, methanol, or other advanced technologies) in combination with diesel fuel to enable compression ignition. A dual-fuel engine typically uses the alternative fuel to supply 85 percent of the total engine fuel requirement on a BTU basis. A dual-fuel engine must be certified by CARB to meet an applicable optional nitrogen oxide or combined nitrogen oxide plus non-methane hydrocarbons exhaust emission standard and be fitted with an approved control device that achieves a particulate matter emissions reduction level no less than the particulate matter emissions reduction level achieved by the latest CARB verified or certified particulate matter control device for the applicable engine family operating entirely on diesel fuel.
- ~~(4)~~ EQUIPMENT BREAKDOWN means any malfunction to an alternative fuel solid waste collection vehicle subject to this rule which causes the vehicle to operate in an unsafe or unusable manner.
- ~~(5)~~ GOVERNMENTAL AGENCY includes any state, regional, county, city, or governmental department and agency, and any special district such as water, air, sanitation, transit, and school districts.
- ~~(46)~~ HEAVY-DUTY VEHICLE means any vehicle having a gross vehicle weight of at least 14,000 pounds.
- ~~(57)~~ PILOT IGNITION HEAVY-DUTY VEHICLE means a heavy-duty vehicle equipped with an engine designed to operate using an alternative fuel as defined in paragraph (c)(1), except that diesel fuel is used for pilot ignition at an average ratio of no more than one part diesel fuel to ten parts total fuel on an energy equivalent basis. The engine shall not operate or idle solely on diesel fuel at any time.
- ~~(68)~~ PUBLIC OR PRIVATE SOLID WASTE COLLECTION FLEET OPERATOR is a person who owns, leases, or operates substantially in the District, solid waste collection, rolloff, or transfer vehicles. A person is a ~~federal~~, state, county, or city government department or agency; special district such as a sanitation or water district; individual firm; limited liability company; association; partnership; corporation or any other entity that collects, transports, or transfers solid waste, yard waste, or recyclable materials.

- (~~79~~) ROLLOFF VEHICLE means any heavy-duty vehicle used for the express purpose of transporting waste containers such as open boxes or compactors.
- (~~810~~) SOLID WASTE means all putrescible and nonputrescible solid, and semisolid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. Solid waste does not include hazardous waste, radioactive waste, or medical waste as defined in Section 40191(b) of the Public Resources Code.
- (~~911~~) SOLID WASTE COLLECTION VEHICLE means any heavy-duty vehicle used for the express purpose of collecting solid waste, yard waste, or recyclable materials from residential or commercial establishments. A solid waste collection vehicle is a vehicle having the capability to collect solid waste using, either manual or automated, front, side or rear loaders and generally operates on fixed routes.
- (~~4012~~) TRANSFER VEHICLE means any heavy-duty vehicle used for the express purpose of transferring solid waste. A transfer vehicle is usually a tractor/trailer combination where the trailer is loaded at a processing or transfer station.
- (~~4413~~) VEHICLE means any self-propelled, motorized device that is permitted to operate on public roads through Department of Motor Vehicle registration or the federal government.
- (d) Fleet Requirements
- (1) Beginning July 1, 2001, for public and private solid waste collection fleet operators of 50 or more solid waste collection vehicles; and beginning July 1, 2002, for public and private solid waste collection fleet operators\_ of 15 or more solid waste collection vehicles, or a combined total of 15 or more rolloff, transfer, or solid waste collection vehicles, all additions to an existing fleet, or formation of a new fleet, of solid waste collection vehicles shall be by purchase or lease of:
    - (A) alternative-fuel or pilot ignition heavy-duty vehicles when adding or replacing solid waste collection vehicles to their vehicle fleet; or
    - (B) Prior to July 1, 2004, dual-fuel heavy-duty vehicles when adding or replacing solid waste collection vehicles.
  - (2) Beginning July 1, 2001, for public and private solid waste collection fleet operators with a combined total of 15 or more transfer or rolloff vehicles, all additions to an existing fleet, or formation of a new fleet, of transfer or rolloff



vehicles shall be by purchase or lease of alternative-fuel, pilot ignition, or dual-fuel heavy-duty vehicles when adding or replacing transfer or rolloff vehicles.

- (3) Beginning (date of adoption), any governmental agency that obtains new or renewed solid waste collection services from private fleet operator(s) shall contract for 100 percent use of alternative-fuel solid waste collection vehicles, including the use of backup alternative-fuel solid waste collection vehicles.
- (4) Pursuant to subparagraphs (d)(3)(A) or (d)(3)(B), alternative-fuel solid waste collection vehicles shall be used for the entire term of the contract. If alternative-fuel solid waste collection vehicles are not initially available for new or renewed solid waste collection services due to the date of delivery, the government agency shall submit a signed and dated Technical Infeasibility Certification Request (TICR) to the Executive Officer prior to the service award, demonstrating the unavailability of alternative-fuel solid waste collection vehicle(s) for the period of time during which alternative-fuel solid waste collection vehicles are to be delivered.

  - (A) Within 45 calendar days of receipt of a completed Technical Infeasibility Certification Request, the Executive Officer will either approve or disapprove the Request in writing, indicating the reasons for disapproval.
  - (B) The Executive Officer shall disapprove a Technical Infeasibility Certification Request if it does not meet the requirements of paragraph (d)(4). If a Technical Infeasibility Certification Request is disapproved by the Executive Officer:

    - (i) The reasons for disapproval shall be given to the applicant in writing.
    - (ii) Upon receipt of a notice of a disapproved Technical Infeasibility Certification Request, the fleet operator shall use alternative-fueled solid waste collection vehicles pursuant to paragraph (d)(4).
    - (iii) The fleet operator may resubmit a Technical Infeasibility Certification Request at any time after receiving a disapproval notification, but must still use alternative fuel solid waste collection vehicles pursuant to paragraph (d)(4) until such time as the Executive Officer approves a Technical Infeasibility Certification Request under subparagraph (d)(4)(A).
  - (C) A Technical Infeasibility Certification Request is subject to plan filing and evaluation fees as described in Rule 306.

- (5) A governmental agency is permitted to substitute the use of a diesel-powered solid waste collection vehicle for an alternative-fuel solid waste collection vehicle based on compliance with requirements under subdivision (e).

(e) Equipment Breakdown

- (1) A fleet operator is permitted to substitute the use of a diesel-powered solid waste collection vehicle resulting from the breakdown of an alternative-fuel solid waste collection vehicle for a period lasting no longer than seven calendar days provided that the following requirements are satisfied:

(A) The fleet operator reports by telephone or other District-approved method, any breakdown of an alternative fuel solid waste collection vehicle to the Executive Officer within 24 hours of such breakdown. The fleet operator report shall include cause of breakdown, expected timeframe for use of diesel-powered vehicle, vehicle identification number and license plate numbers of vehicle experiencing breakdown and replacement vehicle, jurisdictions affected by vehicle breakdown (applicable for private fleet operators).

(B) Within (7) seven calendar days after a reported breakdown has been corrected, the fleet operator owner or operator shall submit a written Breakdown Report to the Executive Officer which includes:

- (i) an identification of the vehicle involved in the equipment breakdown including VIN, license plate number, and the make, model, and model year of vehicle and engine(s), and the cause of the breakdown;
- (ii) start and end dates of breakdown;
- (iii) the date of the correction and information demonstrating that compliance is achieved;
- (iv) the jurisdictions affected by the equipment breakdown and the number of route miles and estimated diesel fuel consumption by jurisdiction;
- (v) a description of the corrective measures undertaken and/or to be undertaken to avoid such a breakdown in the future; and
- (vi) information substantiating that the equipment breakdown did not result from operator error, neglect, or improper operation or maintenance procedures.

(C) a backup alternative-fuel solid waste collection vehicle is not available .

(2) If the breakdown was caused by operator error, neglect, improper operation or maintenance procedures, as determined by the Executive Officer, the provisions of subdivision (e) shall not apply.

(ef) Exemptions

The provisions of this rule shall not apply to the following:

- (1) No more than ten evaluation/test vehicles per fleet, provided by or operated by vehicle manufacturer for testing or evaluation, exclusively.
- (2) Heavy-duty vehicles not used for the express purpose of collecting solid waste from residential or commercial establishments or transferring of solid waste from a waste transfer station to a landfill.
- (3) Upon demonstration to the Executive Officer, any solid waste collection vehicles as required pursuant to paragraph (d) for which no alternative-fuel engine and chassis configuration is available commercially or could be used.
- (4) Any vehicle added to or replacing a vehicle in an existing fleet after the applicable implementation date of this rule, as specified in subdivision (d), as long as the purchase contract for acquisition of such vehicle is signed before the date of adoption of this rule. This exemption does not apply to the execution of options to acquire vehicles where the option is executed after the date of adoption of this rule and where vehicle delivery does not occur until after the applicable implementation date as specified in subdivision (d).

~~(5) Persons subject to this rule who are unable to comply may apply for a variance with the SCAQMD Hearing Board. (See SCAQMD Regulation V and California Health and Safety Code Sections 42350 through 42372 for information regarding variances.)~~

(65) Upon demonstration to the Executive Officer that all existing solid waste collection vehicles equipped with 1995 and subsequent model year diesel engines in the fleet, have been equipped with approved control devices, a fleet operator may purchase dual-fuel or vehicles pursuant to subparagraph (d)(1)(B) until July 1, 2005.

(6) Solid waste collection vehicles where the combined total of government operated solid waste collection vehicles and private fleet operated solid waste collection vehicles providing solid waste collection services to the government agency is fewer than 15 vehicles.

**(fg)** Compliance Auditing and Enforcement

- (1) The fleet operator shall provide at the request of the District any files and/or records created to comply with subdivision (d) including fleet-specific information, such as a list of official DMV registrations, manufacturer, model-year, model, engine family number, fuel type, and fuel usage of each fleet vehicle. The fleet operator shall keep all required records for a minimum of two years.
- (2) Any fleet operator seeking an exemption under subdivision (fe) shall supply proof that their vehicle or fleet is exempted from this rule when requested by the District.
- (3) No later than July 1, 2001, any fleet operator with 15 or more, but fewer than 50 vehicles subject to paragraph (d)(1) shall submit a letter to the Executive Officer outlining the intended source of alternative fuel to be used for compliance purposes.

**(gh)** Severability

If any provision of this rule is held by judicial order to be invalid, or invalid or inapplicable to any person or circumstance, such order shall not affect the validity of the remainder of this rule, or the validity or applicability of such provision to other persons or circumstances. In the event any of the exceptions to this rule is held by judicial order to be invalid, the persons or circumstances covered by the exception shall instead be required to comply with the remainder of this rule.